

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

MMG IP MANAGEMENT LLC, a
Texas limited-liability company,

Plaintiff,

vs.

PLAXO, INC., a Delaware corporation,
Defendant.

Civil Case No. 2:16-cv-399

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

For its Complaint against Defendant Plaxo, Inc. (“Plaxo”), Plaintiff MMG IP Management LLC (“MMG”) hereby alleges as follows.

JURISDICTION AND VENUE

1. This is an action including for infringement under the patent laws of the United States, 35 U.S.C. § 101, *et. seq.* This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

2. This Court has personal jurisdiction over the Plaxo because it regularly conducts business in Texas and in this District, where it has committed the infringing acts alleged herein.

3. Venue is proper in this Judicial District under 28 U.S.C. §§ 1391(b)-(c) and 1400.

PARTIES

4. Plaintiff MMG is a Texas limited-liability company having a principal place of business in Plano, Texas.

5. On information and belief, Defendant Plaxo is a Delaware corporation having a principal place of business at 1050 Enterprise Way, Sunnyvale, California.

COUNT I—INFRINGEMENT OF U.S. PATENT NO. 8,321,459

6. Plaintiff MMG re-alleges and incorporates by reference paragraphs 1-5 above, as if fully set forth herein.

7. MMG is the owner by assignment of U.S. Patent No. 8,321,459 (“the ‘459 patent”), which is entitled “Method and System for Facilitating Access to Always Current Contact Information,” which duly and lawfully issued on November 27, 2012. A true and correct copy of the ‘459 patent is attached hereto as Exhibit A. Peter Pekarek-Kostka is the inventor on the ‘459 patent, and a member and owner of MMG.

8. The claims of the ‘459 patent are directed to, for example, a “method for effectuating access to always current and accurate personal identifying contact

information including the information elements of name and address” and Claim 1, for example, recites elements including, *inter alia*, (a) “providing a data processing entity for electronically storing, retrieving, searching, analyzing, and rearranging personal identifying contact information elements including name and address for a multiplicity of contact information records corresponding to a respective multiplicity of users,” (b) “which is connectable electronically to users,” and (c) “wherein upon submission of said personal identifying contact information from multiple users, some or all personal identifying contact information elements are searched by the data processing entity and analyzed for similarity based upon predetermined criteria,” (d) “links or pointers between the submitted information about a user and the corresponding record of the user are established,” (e) “which enable any one user to update or change personal identifying contact information electronically,” and (f) “have those updates or changes available to other users.”

9. The ‘459 patent covers the methods and systems invented by MMG’s Peter Pekarek-Kostka, and protects MMG’s exclusive right to sell its methods and systems without infringement by competitors or their products. With MMG’s covered methods and systems, as long as the owner of the contact information updates his or her records in a storage location, all third party contact information collections are also kept up to date and users benefit from the most accurate and current contact information available.

10. Attached hereto as Exhibit B is a true and correct copy of an April 5, 2004 article from the New York Times, entitled “Helping People On The Move Keep Addresses Up To Date.” The article highlights the early success of Plaxo, described as “an online service that helps computer users keep their address books updated with the latest postal addresses and phone numbers of everybody in their circle.”

11. The article highlights contemporaneously the innovation, utility and non-obviousness of the methods and systems for “effectuating access to always current and accurate personal identifying contact information,” as claimed in the ‘459 patent. These methods and systems were not routine or conventional, particularly at the time of the article in 2004.

12. As recognized at the end of the article:

A start-up company called miniFILE Inc., based in Weatherby, Conn., has a similar product, also free. Instead of installing a program on their computers, users can put their address lists on miniFILE’s Web site, and the company maintains them. A miniFILE member’s information is automatically updated on other members’ address lists, but the service does not contact nonmembers to ask them for new information. MiniFILE’s network has about 30,000 members. But the company filed a patent application for its network method before Plaxo filed its two patent applications. Peter Kostka, miniFILE’s founder, said that if his patent was approved, Plaxo could not operate without violating it.

The patent application mentioned in the article ultimately resulted in the ‘459 patent.

13. On information and belief, Plaxo has made, used, offered for sale, sold and/or imported into the United States systems and/or methods covered by the claims of

the ‘459 patent, and continues to do so; for example, the Plaxo PRO functionality employs the method covered by Claim 1 of the ‘459 patent.

14. First, the Plaxo PRO includes a “method for effectuating access to always current and accurate personal identifying contact information including the information elements of name and address,” as explained as follows:



Your address book just got smarter


Source: https://www.plaxo.com/support/getting_started/aim?tab=abc

the Universal Address Book powered by Plaxo

How does the Universal Address Book help me?

The Universal Address Book gives you a single place to manage all of your contact information, including your own. You keep your contact info up-to-date, your friends, family and colleagues keep their info up-to-date, and everyone's address book is updated - automatically!

Plaxo's suggestion engine constantly monitors your address book to keep your contacts complete, up-to-date, and reliable.



Updated contacts

The fully dedicated suggestion engine works proactively to enrich your contacts through social networks and publicly available sources. Receive the latest recommendations, ensuring that your address book consists of the most current information available for your contacts.

Source: <https://www.plaxo.com/products/overview/plaxo-pro?secure=1>

15. Next, the Plaxo PRO employs (a) “providing a data processing entity for electronically storing, retrieving, searching, analyzing, and rearranging personal identifying contact information elements including name and address for a multiplicity of contact information records corresponding to a respective multiplicity of users,” (b) “which is connectable electronically to users,” as explained as follows:

easy

Plaxo makes contact management a breeze

Manage all of your contacts from one place. Unify your address books, remove duplicates, and back up to a secure cloud.

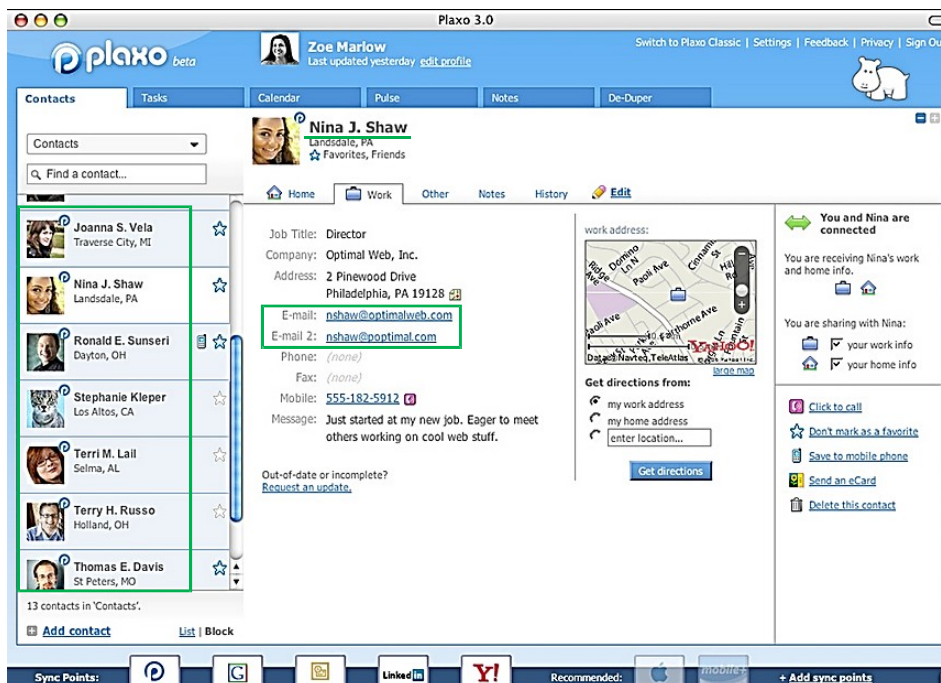
convenient

Stay connected to your contacts anytime anywhere

Plaxo works across multiple platforms and devices. You'll always have access to your contacts and calendars.

PLAXO PRO FEATURES

Continuously searches and finds new contact info with as little as an email address



Source: <https://www.plaxo.com/products/overview/plaxo-pro?secure=1>

updated

Keep your contacts updated and in sync

Plaxo keeps all your address books, calendars, and devices automatically updated and in sync.

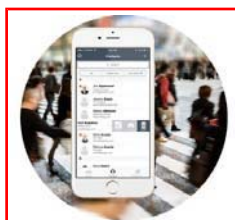
Source: <http://www.plaxo.com/>
 Source: <http://blog.plaxo.com/2007/06/introducing-an/>

convenient

Stay connected to your contacts anytime anywhere

Plaxo works across multiple platforms and devices. You'll always have access to your contacts and calendars.

Source: <http://www.plaxo.com/>



Plaxo 3.0

Switch to Plaxo Classic | Settings | Feedback | Privacy | Sign Out

Contacts Tasks Calendar Pulse Notes De-Duper

Find a contact...

Joanna S. Vela
Traverse City, MI

Nina J. Shaw
Landsdale, PA
Favorites, Friends

Ronald E. Sunseri
Dayton, OH

Stephanie Kleper
Los Altos, CA

Terri M. Lail
Selma, AL

Terry H. Russo
Holland, OH

Thomas E. Davis
St Peters, MO

13 contacts in 'Contacts'.
Add contact List Block

Nina J. Shaw
Landsdale, PA
Favorites, Friends

Job Title: Director
 Company: Optimal Web, Inc.
 Address: 2 Pinewood Drive
 Philadelphia, PA 19128
 E-mail: nshaw@optimalweb.com
 E-mail 2: nshaw@poptimal.com
 Phone: (none)
 Fax: (none)
 Mobile: 555-182-5912
 Message: Just started at my new job. Eager to meet others working on cool web stuff.
 Out-of-date or incomplete?
[Request an update.](#)

work address:

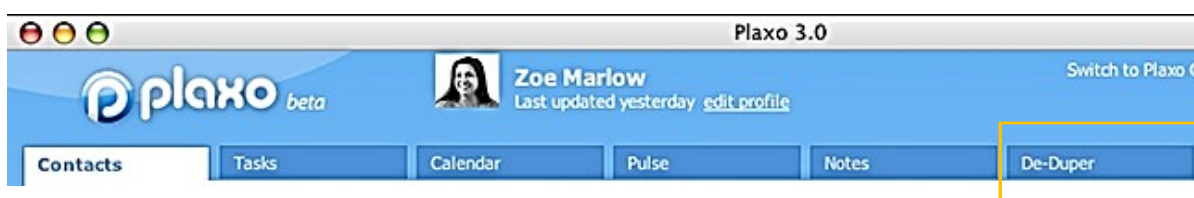
 Get directions from:
 my work address
 my home address
 enter location...
[Get directions](#)

You and Nina are connected
 You are receiving Nina's work and home info.
 You are sharing with Nina:
☒ your work info
☒ your home info
[Click to call](#)
[Don't mark as a favorite](#)
[Save to mobile phone](#)
[Send an eCard](#)
[Delete this contact](#)

Sync Points: Recommended: + Add sync points

trod

16. Next, the Plaxo PRO satisfies the element of (c) “wherein upon submission of said personal identifying contact information from multiple users, some or all personal identifying contact information elements are searched by the data processing entity and analyzed for similarity based upon predetermined criteria,” as follows:



Source: http://blog.plaxo.com/2007/06/introducing_an/

Manage Your Address Book with Plaxo's All-new Contact De-Duper

1. Automatically remove exact duplicate contacts

If your address book contains exact duplicates, you don't need to step through a lengthy removal process. Let the Plaxo Contact De-Duper automatically remove duplicate contacts.

2. Use interactive guide to merge duplicate contacts

The improved Contact De-Duper interactive guide automatically finds duplicate contacts in your address book and makes recommendations to correct and merge them. You can validate the recommendation, select info you want to keep, and also make changes on your own.

Source: http://blog.plaxo.com/2010/09/manage_your_add/

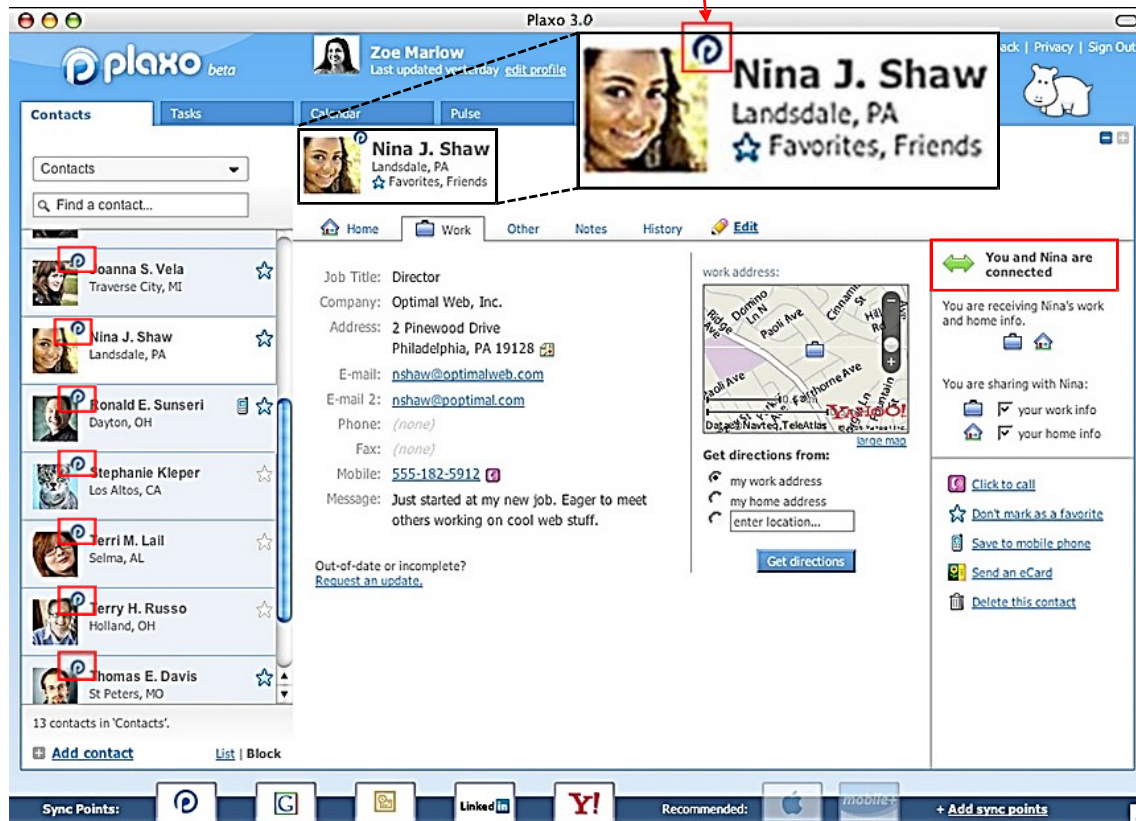
17. Next, the Plaxo PRO satisfies the element of (d) “links or pointers between the submitted information about a user and the corresponding record of the user are established,” as follows:

plaxo

How Plaxo Works

Users will also notice that the Contact summary page displays a Plaxo icon on the cards of people who have joined Plaxo. The Notification list at the bottom of the Plaxo Today panel illustrates how Plaxo keeps users up-to-date with the various changes and updates that they are receiving. When friends and contacts download Plaxo, Plaxo users will be automatically connected to them - no e-mails necessary. Plaxo will automatically insert any changes from a user's contacts' cards directly into his/her address book, and vice versa (changes to the users' cards are automatically inserted into his/her friend's address book). Users always have complete control over which contacts receive what information (if any).

Source:



18. Next, the Plaxo PRO satisfies the elements of (e) “which enable any one user to update or change personal identifying contact information electronically,” and (f) “have those updates or changes available to other users,” as follows:



Source: https://www.plaxo.com/support/getting_started/aim?tab=connections

plaxo

How Plaxo Works

Users will also notice that the Contact summary page displays a Plaxo icon on the cards of people who have joined Plaxo. The Notification list at the bottom of the Plaxo Today panel illustrates how Plaxo keeps users up-to-date with the various changes and updates that they are receiving. When friends and contacts download Plaxo, Plaxo users will be automatically connected to them - no e-mails necessary. Plaxo will automatically insert any changes from a user's contacts' cards directly into his/her address book, and vice versa (changes to the users' cards are automatically inserted into his/her friend's address book). Users always have complete control over which contacts receive what information (if any).

Source: http://www.plaxo.com/css/support/how_plaxo_works.pdf, Page 2 of 4

19. On information and belief, Plaxo has caused, encouraged and aided others, including customers, to directly infringe the '459 patent having full knowledge of the '459 patent and the specific intent that its acts and the acts of its customers and/or others to directly and/or indirectly infringe the '459 patent.

20. By the acts of making, using, offering to sell, selling and/or importing systems and/or methods including the Plaxo PRO, Plaxo has directly infringed the '459 patent under 35 U.S.C. § 271(a).

21. By the acts of actively inducing others to infringe the '459 patent, Plaxo has infringed the '459 patent under 35 U.S.C. § 271(b). On information and belief, having knowledge of the '459 patent, Plaxo specifically intended for its customers to infringe the '459 patent by using and/or re-selling the accused infringing systems and/or methods.

22. The acts of infringement asserted herein have been and continue to be deliberate and willful, at least since Plaxo first learned about the '459 patent.

23. Plaxo has derived and received gains, profits and advantages from the aforesaid acts of infringement, and MMG has lost profits and has otherwise been damaged and is entitled to monetary relief in an amount to be determined at trial.

24. The infringement of the '459 patent has caused and continues to cause irreparable harm to MMG, for which there is no adequate remedy at law, and the infringement will continue unless and until it is enjoined by this Court.

PRAYER FOR RELIEF

Therefore, Plaintiff MMG prays for the following relief:

A. A determination that Defendant has infringed the '459 patent under 35 U.S.C. § 271, either literally and/or under the doctrine of equivalents;

B. A preliminary and permanent injunction against the continuing patent infringement;

C. An accounting for damages adequate to compensate for the patent infringement under 35 U.S.C. § 284, including Plaintiff's actual damages including lost profits, treble damages, pre-judgment and post-judgment interest, and costs;

D. A determination of willful patent infringement, and that this is an exceptional case, and an award of reasonable attorney fees and expenses to Plaintiff under 35 U.S.C. § 285; and

E. Such other and further relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Fed. R. Civ. P. 38(b), Plaintiff demands hereby a jury trial on any issues triable of right by a jury.

Dated: April 12, 2016

Respectfully submitted,

/s/Stafford Davis w/ permission of lead attorney

Stafford Davis

State Bar No. 24054605

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